

Appl. No. 10/792,228
Response dated March 30, 2005
Reply to Office Action of February 2, 2005

Docket No. 5873.38012

REMARKS / ARGUMENTS

Claims 1-24 are pending in the application. Claims 14-16 have been cancelled, as being drawn to a non-elected invention.

Claims 1-13 and 17-24 remain in this application. Claims 1, 8, 17, and 22 have been amended. No claims have been added.

ELECTION / RESTRICTION

Applicant affirms the election of claims 1-13 and 17-24. Claims 14-16 drawn to a non-elected invention have been cancelled.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112

Claims 8 and 17-21 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because of insufficient antecedent basis.

In response to the rejection, Applicant has amended claim 8 so that it now depends from claim 3, which is the claim that introduces the elements of "a heating channel of a heated jaw of a supplemental hair applicator," thereby providing the antecedent basis for "the heating channel of the heated jaw of the supplemental hair applicator" in claim 8.

With regard to claim 17, Applicant has changed "the glued portion" to "a glued portion".

Applicant respectfully submits that the amendments to claim 8 and 17 satisfy the requirements under 35 U.S.C. § 112, second paragraph. Withdrawal of this rejection is respectfully requested.

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CLAIM REJECTIONS UNDER 35 U.S.C. § 102(b)

Claims 1-2, 6, and 10-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Barrington (U.S. Pat. No. 5,107,867). This rejection is respectfully traversed.

Barrington relates to a process for attaching hair extensions of supplemental hair to human hair. The strands of supplemental hair are initially joined to one another with a thermostable adhesive to form a plug, or a bunch, of supplemental hair. (See the Abstract) **Fig. 2** shows strands of supplemental hair **10** that are gathered together at end **14** where thermostable adhesive **16** is applied from applicator **18**, thereby coating and impregnating strands of supplemental hair **10** at end **14**. Thermostable adhesive is a heat resistant, air drying adhesive such as cyanoacrylate, which is better known as SuperGlue or CrazyGlue. Thermostable adhesive **16** cures and hardens into tip **20**. (See Column 3, Line 2 – Column 4, Line 2) When heat is applied to thermostable adhesive after it hardens, it does not melt or fuse; it remains hardened.

Once hair plug **22** is formed, thermostable adhesive **16** is coated with thermosetting adhesive **24** from applicator **26**. See **Fig. 3**. Thermosetting adhesive **24** is a typical hobby-type hot melt glue which melts or fuses when it is hot, and hardens when it is cooled. Note that tip **20** of plug **22** does not have thermosetting adhesive **24** between strands of supplemental hair **10**—strands of supplemental hair **10** are held together in tip **20** by thermostable adhesive **16**.

Barrington applies supplemental hair plug **22** by threading natural hair **12** through a length of heat shrinkable tubing **30** and inserting thermosetting adhesive coated tip **32** of supplemental hair plug **22** into heat shrinkable tubing **30**. Heat is applied with a hair flatiron **34** to heat shrinkable tubing **30** to melt thermosetting adhesive **24**. When thermosetting adhesive **24** liquefies, it flows over the strands of natural hair **12** to bind natural hair **12** to the outside

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perimeter of tip **20** of supplemental hair plug **22**. Heat shrink tubing **30** shrinks to compress the junction of natural hair **12** and tip **20** of supplemental hair plug **22**. In Column 4, line 46, Barrington states that "thermostable adhesive **16** which surrounds strands of supplemental hair **10** to form tip **20** does not liquefy at this point, therefore, heat shrink tubing **30** does not flatten but remains a cylindrical shape when it shrinks." Thus, tip **20** maintains its shape, is not deformed, and supplemental hair **10** and natural hair **12** are not allowed to intermingle or mix when thermosetting adhesive **24** liquefies.

With respect to independent claim 1, Applicant respectfully submits that the subject matter claimed therein patentably distinguishes over Barrington. Specifically, claim 1 recites a supplemental hair bundle, that "includes a plurality of supplemental hair strands glued to one another at the glued portion by thermoplastic glue." Additionally, "the thermoplastic glue between supplemental hair strands is fused" when the glued portion of the supplemental bundle is directly contacted with a heating element. As discussed above, Barrington does not fuse or melt glue between supplemental hair strands. In Barrington, the glue between supplemental hair strands is a thermostable adhesive that does not melt or liquefy once it has hardened.

In the clamping step, Applicant's claim 1 recites that "the glued portion is distorted to force fused glue to contact and mix with the plurality of strands of human hair." As mentioned above, Barrington does not permit hardened tip **20** to distort because the thermostable adhesive plug does not flatten; it remains cylindrical in shape under the pressure and heat of flat iron **34** and heat shrink tubing **30**.

Applicant's invention has the advantage of forming a stronger joint between human hair and supplemental hair because strands of human hair and supplemental hair are allowed to intermingle and mix to increase the number of human hairs bonded to individual supplemental strands of hair. As recited in claim 10, the step of contacting the glued portion of the supplemental

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hair bundle together with the selected plurality of strands of human hair further includes the step of "mixing fused glue in the glued portion of the supplemental hair and supplemental hair strands into the selected plurality of strands of human hair." Thus, glue and supplemental hair strands are mixed into strands of human hair to form a strong joint.

In contrast, the joint formed in Barrington consists of strands of human hair bonded to the circumference or the periphery of hardened tip 20 of supplemental hair plug 22. Human hair is not allowed to intermingle or come between strands of supplemental hair because supplemental hair is bonded with a thermostable glue that does not melt when the supplemental hair is applied to the human hair.

For the reasons stated above, applicant respectfully requests the withdrawal of the §102(b) claim rejection.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102(e)

Claims 17-18, and 21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Korean Patent 10-0396250 (KP '250). This rejection is respectfully traversed because the Examiner has improperly used KP '250 as a prior art reference under 35 U.S.C. § 102(e).

Under revised 35 U.S.C. § 102(e), a foreign patent can be effective as prior art as of its filing date if: (1) the filing date is on or after November 29, 2000; (2) the international application designated the United States; and (3) it was published by the World Intellectual Property Organization (WIPO) under the Patent Cooperation Treaty (PCT) Article 21(2) in the English language.

Because Korean Patent '250 was not the subject of an international application designating the U.S., and because it was not published by the WIPO under PCT Article 21(2) in the English language, it is not effective as prior art as

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of its April 17, 2001 filing date—KP '250 does not qualify for a §102(e) date. Korean Patent '250 is, however, effective as prior art under §102 as of its publication date, which is October 26, 2002.

The present application is a continuation of Application 10/159,094, and, under 35 U.S.C. §120, the present application is entitled to claim the benefit of priority of the May 30, 2002 filing date of its parent application. Because KP '250 is effective as prior art as of its October 26, 2002 publication date, a date that is after applicants May 30, 2002 priority date, KP '250 is not prior art for Applicant's invention. The Examiner has not submitted any basis for believing that the KP '250 is prior art as of its filing date; the Examiner has not shown that KP '250 was filed as an international application designating the United States and was published by WIPO in English.

Because KP '250 is an improper prior art reference, the Examiner has not supplied a factual basis supporting a rejection of the present application. Applicant respectfully requests the withdrawal of this rejection.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Korean Patent 10-0396250 (KP '250). Claims 3-5, 7-9, 13, and 22-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Barrington in view of KP '250. This rejection is respectfully traversed.

For the reasons stated above, KP '250 is an improper prior art reference, and therefore the Examiner has not supplied a factual basis supporting a rejection of the present application under 35 U.S.C. § 103(a). Applicant respectfully requests the withdrawal of this rejection.

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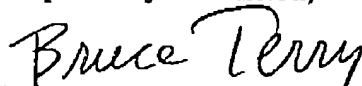
CONCLUSION

For the reasons stated above, and in view of the amendments, Applicant respectfully submits that the application is in condition for allowance. Reconsideration and withdrawal of the rejections is requested. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If the Examiner believes that any remaining issue of patentability might be expeditiously resolved in a telephone conference, the Examiner is invited to call Applicant's attorney at the telephone number below.

No additional fee is deemed required. However, if an additional fee is required, the Commissioner is hereby authorized to charge additional fees which may be required for this Amendment, or credit any over payment, to Deposit Account Number 23-2770. If any extension of time is required, such extension is hereby requested. Please charge any additional required fee for such extension of time to Deposit Account Number 23-2770.

Respectfully submitted,



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